IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. Civil Second Appeal No.696 Of 2003.

Hajari Mal Vs. The Collector, Sikar & Others.

Date Of Order ::: 14.12.2006.

Hon'ble Mr. Narendra Kumar Jain J.

Mr. R.D.S. Naruka, Counsel for plaintiff-appellant
Mr. K.N. Gupta, Counsel for defendant-respondents

By the Court :

Heard learned counsel for both the parties.

The plaintiff-appellant filed a suit for declaration and permanent injunction in the Lower Court. The Lower Court framed specific issue i.e. Issue No.1 as to whether the plaintiff is the owner and in possession of the disputed piece of land and the defendant has no right to dispossess the plaintiff. The Lower Court after appreciating the evidence on record produced by both the parties, recorded a finding of Issue No.1 against the plaintiff and consequently dismissed the suit. The judgment and decree passed by

the Lower Court has been affirmed by the First Appellate Court also.

During the pendency of this appeal, the learned counsel for the plaintiff-appellant has filed an application under Order 41 Rule 27 of the C.P.C., for taking on record the additional documents to show that the land, in dispute has been converted from pasture land to Aabadi land. In view of the finding of fact in respect of Issue No.1, the documents produced by the appellant, along with the application are not relevant for the purpose of deciding the controversy involved in the present case.

Consequently the application under Order 41 Rule 27 read with Section 151 of the C.P.C., is dismissed.

I have heard the learned counsel for both the parties and after considering their submissions in the light of the findings of both the Court below, I find that the controversial issues involved in the present case are relating to the question of facts and there is a concurrent finding of fact by both the Courts below, which cannot be interfered with by this Court in second appeal under Section 100 of the C.P.C.

No substantial question of law is involved in this second appeal and the same is accordingly dismissed at the admission stage itself with no order as to costs.

(Narendra Kumar Jain) J.